

## REMARKS

### **I. Status of the Application**

Claims 4, 8, 9 and 12-20 are pending in the application. New claims 21-31 have been added. Claims 4, 8, 9 and 12-20 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Dunn et al., U.S. Patent No. 5,077,049. Applicants request entry and consideration of the foregoing remarks, which are intended to place this case in condition for allowance.

Applicant has amended the claims to more clearly define and distinctly characterize Applicant's novel invention. Specifically, claims 4, 8, 12 and 15 were amended to recite a "melt processed" base material, and claims 9, 18 and 19 were amended to recite "melt processing the polymer(s) or copolymer(s) to form a matrix". Support for melt processing can be found in the specification at least at page 10, lines 3-6, where Applicants teach that the polymer composition of the present invention can be fashioned into implants by injection molding, compression molding, extrusion or with another melt-molding process known by persons skilled in the art. The claims were further amended to address formal matters. New claims 21-31 have been added. Support for new claim 21 can be found in instant claim 4; support for new claims 22 and 23 can be found in instant claims 8 and 9, respectively; and support for new claims 24-32 can be found in instant claims 12-14 and 16-20, respectively. Support for the language "a method for promoting osteogenesis" and "implanting the implant into a recipient to promote osteogenesis" can be found in the specification at least at page 1, lines 9-12, where Applicants teach polymer compositions having osteogenic properties and their use as medical implants for implantation in the body; and at page 6, lines 29-32, where Applicants teach an experimental method for promoting a marked increase in bone healing by contacting bone defects in rabbits with the

claimed polymer compositions. Applicants respectfully submit that the amendments presented herein do not raise new issues requiring further search, and add no new matter.

## II. The Pending Claims Are Novel over Dunn et al.

At page 2 of the instant Office Action, Claims 4, 8, 9 and 12-20 stand rejected under 35 U.S.C. § 102(b) as anticipated by Dunn et al., U.S. Patent No. 5,077,049. The Examiner is of the opinion that Dunn et al. discloses the use of a biodegradable matrix composition which may comprise various polymers such as polylactides and several solvents such as NMP. The Examiner asserts that the composition is used for restoration of the periodontal pocket. The Examiner concludes that the instant claims are clearly anticipated by Dunn et al. Applicants respectfully traverse this rejection.

Applicants' amended claims are directed to resorbable polymer compositions and implants comprising a **melt processed** polymer matrix; methods of making implants comprising a **melt processed** polymer matrix; and methods of making an implant having osteogenic properties which include the step of **melt processing** polymer(s) or copolymer(s). Applicants' claimed invention provides polymer compositions that can be fashioned into osteogenic medical implants for implantation into the body (page 1, lines 10-13). Applicants' claimed invention provides polymer compositions, implants and matrices having osteogenic properties which promote the induction of bone growth (specification page 1, lines 12-13). Implants having osteogenic properties have a variety of uses including enhancing bone healing after osteotomies, enhancing healing of bone fractures, treating periodontal defects and the like (specification page 3, lines 28-34 and page 10, lines 9-11).

In contrast to Applicants' claimed invention, Dunn et al. neither teaches nor suggests the use of melt processing. Instead, Dunn et al. teaches **dissolving** a polymer in a biocompatible solvent to form a **liquid** which can then be administered via a syringe and needle (column 5, lines 7-10). Dunn et al. teaches that their mixture then solidifies in-situ, and may thus be provided without an incision (column 9, lines 36-41). Dunn et al. further teaches that their polymers may be "uniquely administered in a liquid form" (column 1, lines 60-66). In contrast to the methods of Dunn et al. which use a polymer solution, melt processing produces polymers suitable for molding into various shapes, not for injection into a patient via a syringe.

Accordingly, Dunn et al. fails to teach or suggest each and every element of Applicants' claimed invention. Therefore, Applicant requests that the rejection of claims 4, 8, 9 and 12-20 under 35 U.S.C. § 102(b) as being anticipated by Dunn et al. be reconsidered and withdrawn.

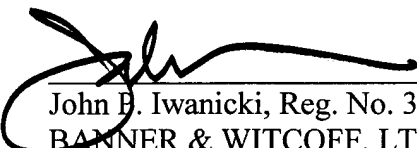
At page 3 of the instant Office Action, the Examiner helpfully suggests "that the claims be amended to read on a method of promoting osteogenesis". In response to the Examiner's suggestion, Applicants have added new claims 21-31, which are directed to a method of promoting osteogenesis comprising implanting an implant into a recipient to promote osteogenesis. Claims 21-31 mirror instant claims 4, 8, 9, 12-14 and 16-20.

### III. Conclusion

Having addressed all outstanding issues, Applicants respectfully request entry and consideration of the foregoing remarks and reconsideration and allowance of all claims at this time. To the extent the Examiner believes that it would facilitate allowance of the case, the Examiner is requested to telephone the undersigned at the number below.

Respectfully submitted,

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